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Six Years of American Tariff Bargaining

BY DAVID H. POPPER

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ON April 5, 1940 the Senate, by a vote of 42 to 37, approved a resolution extending until June 12, 1943 the President's authority to conclude reciprocal trade agreements with other nations.[1] Like the House of Representatives, the Senate had defeated all crippling amendments, preserving unhampered the Administration's freedom to reduce American tariffs by as much as 50 per cent in return for comparable concessions by foreign countries.[2] Immediate prospects for development of the program have admittedly been curtailed by the European conflict. Its supporters, however, have stressed its value as a flexible instrument for the adjustment of American foreign commerce to meet rapidly changing war conditions. They also contend that it will provide a foundation for a more wholesome reconstruction of international trade after hostilities cease.[3] Some opponents of the program, on the other hand, condemn the entire scheme root and branch. They find its underlying theory faulty, its procedure undemocratic and unconstitutional, its results harmful to the American economy, and its retention during the war period highly undesirable.[4]

Tariff bargaining under the system sponsored by Secretary of State Cordell Hull is designed gradually to free international trade of some of the numerous obstacles which have blocked its path in recent years. In support of this system, it is argued that a revival of foreign commerce eases the problem of disposing of American export surpluses, both agricultural and industrial, and raises standards of living everywhere by permitting the interchange of efficiently produced commodities. As a result, nations are encouraged to avoid or abandon totalitarian economic and political controls adopted under depression conditions. Eventually, the trend toward regimentation, dictatorship and aggression, which originates in poverty, may thus be checked, and the impetus to war diminished.[5]

In addition to freeing international trade, the Administration's policy has been framed to protect American commerce against discriminatory treatment and hence to combat inequitable trade practices generally. Under the reciprocal tariff Act, concessions included in trade agreements must be extended automatically to all countries which do not discriminate against our trade. Although this procedure is often criticized as a free gift of reduced duties to non-agreement countries, it is in principle beneficial to the United States, since it enables us to demand similar privileges of others. The alternative course of concluding exclusive bilateral preferential agreements would deprive American exporters of all assurance that they themselves would not be placed at a disadvantage by subsequent bilateral agreements between foreign countries. It would destroy commercial stability because of the need for constant bargaining; and would force the United States, much of whose trade is now triangular, to level off its exports and imports with individual nations on a generally lower plane.[6]

Despite the generalization of advantages under the American system, foreign countries still find it profitable to negotiate agreements with the United

1. *Congressional Record*, April 5, 1940, p. 6180; H.J. Res. 407, 76th Congress, 3d session. The bill became law April 12, 1940.

2. For the House vote, cf. *Congressional Record*, February 23, 1940, p. 2914; for text of the Act, cf. Public Law No. 316, 73d Congress, approved June 12, 1934.

3. Testimony of Secretary of State Hull, in "Extension of Reciprocal Trade Agreements Act," *Hearings before the Committee on Ways and Means, House of Representatives, 76th Congress, 3d Session, on H.J. Res. 407* (Washington, Government Printing Office, 1940), vol. 1, pp. 4, 14. Hereafter cited as *House Hearings*. Cf. also Message of President Roosevelt to Congress, *Congressional Record*, January 3, 1940, pp. 7-8.

4. For brief summary of objections by Republican members of the House Ways and Means Committee, cf. U.S. 76th Congress, 3d Session, *House Report 1594*, part 2, especially pp. 2-8.

5. The objectives of the trade program are discussed in the following Foreign Policy Association publications: R. L. Buell, "The Hull Trade Program and the American System," *World Affairs Pamphlets*, No. 2 (revised ed., March 1939); also D. H. Popper, "The Hull Trade Program," *Foreign Policy Reports*, October 15, 1936, and "Progress of American Tariff Bargaining," *ibid.*, May 22, 1935.

6. Cf. Francis Bowes Sayre, *The Way Forward: The American Trade Agreements Program* (New York, Macmillan, 1939), pp. 113-15; League of Nations, Economic Intelligence Service, *Review of World Trade*, 1938, pp. 37-39; Richard C. Snyder, "The Most Favored Nation Clause and Recent Trade Practices," *Political Science Quarterly* (New York), March 1940, pp. 77-97.

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States, because concessions in each pact are ordinarily limited very closely to articles of which the contracting parties are the principal sources of supply. In return for reducing American tariffs, the Administration not only demands freer access to foreign markets but also equitable treatment under whatever import restrictions the countries concerned may choose to adopt. When agreements are negotiated, the United States seeks a fair share in all quota allotments as determined by its share during a previous representative period. It also attempts to secure protection against discrimination in the application of exchange control, and to obtain assurances that foreign trade monopolies will be guided by ordinary commercial considerations in making purchases.[7] Although these provisions are by no means completely satisfactory, they do much to protect American interests where they are applied.

PROGRESS OF TARIFF BARGAINING

By the beginning of 1940 the State Department had successfully negotiated twenty-four trade agreements, including a revised agreement with Canada and two supplementary agreements. At present these arrangements are in force with twenty states and certain colonial areas.[8] In 1938 the United States sold to these countries (and Czechoslovakia) 59.8 per cent of its exports and purchased from them 62.2 per cent of its imports from all sources.[9] Obviously, the customs schedules of the agreements did not directly cover all the trade between the United States and the nations concerned. On the basis of foreign trade statistics for 1937, the amount and proportion of the agreement countries' imports from the United States affected by trade pacts is as follows:[10]

	Thousands of dollars	*Per cent of imports*
Treatment improved	466,720	26.0
Existing treatment guaranteed	533,483	29.7
Total concessions	1,000,203	55.7

7. Department of State, *Press Releases,* April 1, 5, 1935; Sayre, *The Way Forward,* cited, pp. 123-24.

8. Cuba, Belgium, Haiti, Sweden, Brazil, Canada, the Netherlands, Switzerland, Honduras, Colombia, Guatemala, France, Nicaragua, Finland, El Salvador, Costa Rica, Ecuador, the United Kingdom, Turkey and Venezuela. Operation of the Czech agreement was suspended on April 22, 1939, and the reciprocal tariff provisions of the Nicaraguan pact ceased to be in force on March 10, 1938. Negotiations were under way for a revised pact with Belgium and a new one with Chile. For current status of program, cf. latest issues of *Commerce Reports.*

9. U.S. Department of Commerce, "Foreign Trade of the United States, Calendar Year 1938," *Trade Promotion Series No. 198,* part 1, p. 53.

10. Does not include Czechoslovakia, Nicaragua, or French, Dutch and British colonies. Compiled from Department of State data, January 15, 1940.

Some indication of the rôle assumed by the trade agreements in American commercial policy is afforded by a survey of the customs changes made in carrying out the program. The gross number of concessions and assurances obtained from foreign countries—including certain duplications—considerably exceeds 3,000, of which 1,600 represent tariff rates reduced or removed.[11] Had these concessions been in effect in 1937, about 30 per cent of United States exports to all countries would have been affected.[12] As for American imports, 1,012 rates have been reduced, 59 bound against increase, and 151 items bound on the free list.[13] The importance of these concessions in American foreign trade, again calculated on the basis of 1937 figures, is illustrated by the table below.

	Total imports, millions of dollars	*Per cent of total imports*	*Per cent of total dutiable imports*
Total imports	$3,010	100.0	. . .
Total dutiable	1,245	41.4	100.0
Reduced duty*	450	15.0	36.2
Reduced duty, Cuba†	116	3.9	9.3
Bound at existing duty	63	2.1	5.0
			Per cent of total duty-free imports
Total duty-free	1,765	58.6	. . .
Bound duty-free*	1,154	38.3	65.4
Bound duty-free, Cuba†	14	0.4	0.8

*Not including Cuba.

†Concessions to Cuba are listed separately, since they are not generalized to other nations.

Source: Department of State, *Concessions Granted by the United States in Trade Agreements* (January 15, 1940, mimeographed). Percentages calculated from import figures in thousands of dollars. Reductions and bindings do not include concessions granted to Czechoslovakia and Nicaragua.

Bananas, cocoa beans, coffee, tea, crude rubber and tin account for over half the imports of bound duty-free products. The rate reductions made in trade agreements, if they had been applied to all dutiable imports in 1937, would have lowered American tariffs from an ad valorem equivalent of 46 per cent to 36 per cent, representing a cut of 22 per cent. The average reduction in rates on imports actually subject to lower duties would have been 39 per cent.[14] While a large number of the cuts are important, many of the new tariffs still

11. Tariff Commission data. *House Hearings,* cited, vol. 1, p. 628.

12. Department of State, "Concessions Obtained by the United States in Trade Agreements," January 15, 1940 (mimeographed); *House Hearings,* cited, vol. 1, p. 552.

13. *Ibid.,* vol. 1, p. 628.

14. U.S. Tariff Commission, *Influence of Reductions in Rates of Duty Made by Reciprocal Trade Agreements* (revised, January 1940; mimeographed).

remain extremely high, as a few examples will demonstrate:

	*Ad valorem equivalents**	
	Pre-Agreement per cent	*Under agreement per cent*
Whiskey	133	66
Wrapper tobacco	114	75
Manganese ore	107	54
Certain high-priced wool fabrics	97-79	87-54
Certain cotton laces	90	60
Certain watch movements	85 and 75	51 and 54
Sugar, Cuba only (imports subject to quota)	61	37

*Based on 1937 import values. Compiled from U.S. Tariff Commission, *Important Import Items Affected by Trade Agreements* (mimeographed, January 1940).

DO PACTS AID U. S. TRADE?

Between 1932 and 1937 the dollar value of American foreign trade rose steadily; exports increased from $1,611,016,000 to $3,349,167,000, while imports climbed from $1,322,774,000 to $3,083,668,000. In 1938 the upward movement was reversed, principally because of the economic recession, and in 1939, although part of the lost ground was regained, exports totaled only $3,177,344,000 and purchases from abroad, $2,318,258,000.[15] It is reasonable to assume that the Hull program is responsible for a certain proportion of the increase in trade since 1934. But because the agreements constitute only one of a number of variables whose influence is reflected in American foreign trade, their effect cannot be precisely delineated. Such factors as industrial recovery here or abroad, drought or agricultural surfeit, and rearmament or war itself may completely overshadow or counteract the economic stimuli incorporated in trade agreements.

Notwithstanding this difficulty, an impressive array of evidence has been collected indicating that the Hull pacts have actually helped to increase American foreign trade. In the first place, United States commerce has expanded much more rapidly with agreement than with non-agreement countries. This is particularly apparent with regard to exports, where the ratio over the period since 1934-1935 is roughly two to one.

Exports to the principal individual agreement countries, moreover, have in almost all cases shown a substantially greater rate of increase than exports as a whole.[16] From another point of view, it may be noted that the United States' share of the total imports of trade agreement countries has risen much more sharply than its share of the total imports into other countries. In 1933 the United States supplied 12.2 per cent of total imports into the sixteen countries with which agreements became effective before January 1, 1938; by 1938 the percentage supplied by the United States had grown to 19.7 per cent. For the twenty most important countries with which no trade pacts were then in effect (including the United Kingdom, Turkey and Venezuela), the United States' share in total imports increased only from 12.1 per cent to 14.5 per cent. Comparing the two pre-agreement years 1933-1934 with the post-agreement years 1937-1938, the United States' share of imports into the sixteen agreement countries increased 43 per cent, while it rose only 11 per cent for the twenty non-agreement states. No appreciable changes of this type, however, are apparent in the statistics on United States imports from the two groups of countries.[17]

Hence the convincing evidence that the Administration's trade policy has contributed to the relative increase in United States exports is not duplicated with respect to American imports. On the contrary, the importance of the United States as a customer of the trade agreement countries appears, at least until 1939, to have remained stationary or declined.[18] From such unofficial investigations as have been made, moreover, it is by no means clear that exports of American products whose customs treatment in foreign countries was improved by the trade pacts have as a general rule increased more rapidly than other American exports.[19] Nor does it appear that exports of non-agricultural products have on the whole risen more rapidly to countries which have granted concessions on them than to others. The most marked advances in exports of farm products, however, have been to the states diminishing barriers against them.[20]

15. *Monthly Summary of Foreign Commerce of the United States,* December 1939, p. 3.

16. For detailed statistics, cf. U.S. Tariff Commission, *Pre-Agreement and Post-Agreement Trade of the United States with the Principal Countries with which Trade Agreements were Made before 1937* (mimeographed, January 1940).

17. For detailed data, cf. *Commerce Reports,* February 10, 1940, pp. 141-42. The voluminous statistical material on which the last two paragraphs are based has been collected and reprinted in "Extension of Reciprocal Trade Agreements Act," *Hearings before the Committee on Finance, U.S. Senate, 76th Congress, 3rd Session, on H.J. Res.* 407 (Washington, Government Printing Office, 1940), p. 12. Hereafter cited as *Senate Hearings.*

18. Charles A. Bliss, "Is the United States Losing Its Foreign Markets?" *Harvard Business Review,* Summer 1939, pp. 477-90. In the two-year period 1937-1938, as compared with 1934-1935, United States imports from non-agreement countries rose 37 per cent as against only 35.2 per cent for agreement countries. Cf. "Foreign Trade of the United States, 1938," cited, p. 53.

19. Bliss, "Is the United States Losing Its Foreign Markets?" cited, pp. 487 ff.

20. Cf. data of the American Tariff League, *Senate Hearings,* cited, p. 287; *House Hearings,* cited, vol. 3, pp. 2305 ff.; and its *Monthly Bulletin,* September 1939. A more recent compila-

U.S. FOREIGN TRADE WITH TRADE-AGREEMENT COUNTRIES AND OTHERS*

(Values in millions of dollars)

Items	Comparison of 1939 with 1938				Comparison of 1938-39 with 1934-35			
	1938 Value	1939 Value	Change Value	Change Per cent	1934-35 Average Value	1938-39 Average Value	Change Value	Change Per cent
Exports, including re-exports								
Total, trade-agreement countries	1,758[1]	1,901[1]	+142	+8.1	757[2]	1,232[2]	+475	+62.8
Total, non-agreement countries	1,336	1,277	—59	—4.5	992[3]	1,306[3]	+314	+31.7
Total, all countries	3,094	3,177	+83	+2.7	2,208	3,136	+928	+42.0
General imports								
Total, trade-agreement countries	1,155[1]	1,387[1]	+233	+20.1	774[2]	942[2]	+168	+21.6
Total, non-agreement countries	806	931	+125	+15.6	772[3]	868[3]	+97	+12.5
Total, all countries	1,960	2,318	+358	+18.3	1,851	2,139	+288	+15.6

*U.S. Department of Commerce, Bureau of Foreign and Domestic Commerce, *Commerce Reports,* February 17, 1940, p. 169.

1. Including the eighteen countries (and colonies) with which agreements were in operation during the greater part of 1939. Only 1 of the agreements was in operation throughout 1935, 6 throughout 1936, 14 by the end of 1936, 16 by the end of 1937, 17 by the end of 1938, and 18 by the end of 1939, including the agreement with the United Kingdom (covering also Newfoundland and the non-self-governing British colonies). The agreement concluded with Turkey became provisionally effective only on May 5, 1939, and the agreement with Venezuela only on December 16, 1939. Statistics for these countries are therefore not included in the above calculations.

2. These figures do not include Ecuador, the United Kingdom, Newfoundland, and non-self-governing British colonies, Turkey, and Venezuela with which agreements have been concluded but where the period during which the agreement has been in effect is too short to justify inclusion for purposes of comparison.

3. The apparent discrepancy shown by these figures in comparison with the other totals is due to the non-inclusion of trade with Ecuador and the United Kingdom and its Crown colonies.

General Note.—Percentage changes have been calculated upon fuller figures in thousands of dollars.

These two discordant elements—the relative insensitivity of imports from trade agreement countries, and the lack of close correlation in many instances between foreign concessions and increased exports—indicate that the program modifies rather than determines the course of American merchandise trade. Yet they do not impugn the value, properly conceived, of the Hull policy as such. In so far as trade agreements impart stability to commercial relations, and open trade channels for a free flow of goods, they are achieving their purpose. What they have not done, thus far, is to stimulate imports on the scale required if the United States is to play its part as a creditor nation, ease the foreign exchange stringency of other countries, or at least bring its merchandise exports and imports into approximate balance.[21] Extravagant assertions that lower American tariffs are causing a flood of imports which are injuring this country's economy are consequently not supported by the facts. If the program is to be criticized on general grounds, it must be not because it has gone too far, but because it has not gone far enough. Partly because of the legal limit of 50 per cent on rate reductions, partly because of the extreme caution of Administration officials, no basic change has been made in the nature of the American tariff structure. A large number of peaks have been filed down, but in many instances the remaining margin of protection is more than sufficient. Perhaps it is unreasonable to suppose that a high tariff structure built up over decades, to which the country has adapted its economic organization, can be overturned without serious dislocation. Yet, unless something of the sort is undertaken, the trade program cannot be expected to achieve the more comprehensive economic and political objectives of its supporters.

tion, which makes no distinction between exports directly benefited by trade agreements and other exports to the agreement countries, indicates that in 1939, as compared with 1935, total non-agricultural exports had increased more sharply to the agreement countries than to non-agreement countries. This was not true, however, in the pre-war year 1938. Cf. U.S. Tariff Commission, *United States Exports and Imports for Consumption Showing the Trade in Agricultural Products to Trade Agreement Countries and to Non-Trade Agreement Countries 1935-1939* (March 1940, mimeographed).

21. For a variety of reasons, American merchandise exports in the two years 1938-1939 exceeded imports by almost $2,000,000,000. This discrepancy made it necessary for foreigners to balance their accounts in this country by shipping even more gold to the United States than they were already sending here for purposes of security, speculation or investment. Cf. E. A. Goldenweiser, "The Gold Problem Today," *Federal Reserve Bulletin* (Washington), January 1940, pp. 11-14.

NEGOTIATIONS, 1937-1940.

In an earlier issue of *Foreign Policy Reports* it was pointed out that countries concluding trade agreements with the United States might be divided into three general groups: northern states, a large proportion of whose exports to the United States consists of forest products; tropical nations supplying chiefly non-competitive raw materials and foodstuffs; and important temperate-zone industrial countries, mainly in Europe, which are still the principal market for American exports and the biggest source of our dutiable imports.[22] A fourth group producing surpluses of competitive agricultural commodities may also be distinguished, composed of Argentina, the Australasian dominions, South Africa and a few other countries. In the last three years the trade program has continued to be an outstanding political as well as economic factor in the Western Hemisphere. New agreements have been negotiated with El Salvador, Costa Rica, Ecuador and Venezuela in the tropical classification, while the preferential agreement with Cuba and the Canadian pact have been brought up to date in supplementary conventions. In Europe, besides the Czechoslovakian agreement, now defunct, negotiations have been successfully concluded with the United Kingdom and Turkey.

The importance of the agreements consummated since 1936 more than compensates for their small number. Whether viewed from a political or an economic angle, the parallel negotiations with the United Kingdom and Canada, which are embodied in pacts signed on November 17, 1938 and effective since January 1, 1939, constitute an impressive achievement. For in 1938 the total foreign trade of the United States, the United Kingdom and the non-self-governing areas of the British Empire included in the agreement, together with Canada, accounted for some 35 per cent of all world commerce.[23] While the British pact, obtained only after many months of hard bargaining, is in some respects less extensive than had been anticipated, its conclusion has been hailed as a decisive check to restrictive foreign trade trends.[24] Since 1931 the United Kingdom had veered sharply away from its espousal of classic free-trade principles. A protective tariff had been adopted; domestic agriculture was subsidized and assisted through quota controls; economic bonds with the Dominions and colonies were tightened by the preferential Ottawa agreements of 1932; and the British government had shown a strong tendency to balance trade bilaterally, with individual nations, in its recent trade agreements.[25] Imports from the United States, particularly of farm products, lumber and minerals, were seriously curtailed by these measures.[26] Breaches in the Ottawa system, made with the consent of the Dominions, were consequently welcomed in the United States as an augury that the remaining exclusive empire preferences might possibly be mitigated in the future.

The interchange of commodities directly affected through advantages or bindings by the British agreement was valued in 1936 at a figure of about $675,000,000. For the United States the pact appeared partially to reopen British agricultural markets, which even in 1937 absorbed about $261,000,000, or approximately one-third of our total exports of farm products. The United States, for its part, accorded concessions on some 600 items, imports of which from the United Kingdom amounted in 1937 to $141,500,000, or about 70 per cent of total purchases from that country. Duties were reduced on British products comprising about 29 per cent of all imports from Britain and valued at $60,000,000. Although many of the advantages were individually slight, they covered a long list of characteristically British industrial specialties. Moreover, guarantees of continued duty-free entry were granted for the sizeable volume of free-list imports from the non-self-governing British territories, principally rubber and tin from British Malaya.[27]

Because of abnormal trade conditions during the brief, peace-time period in which the British agreement was functioning, it is difficult to hazard an opinion on the effectiveness of its provisions. In the first six months of 1939, United Kingdom imports from the United States were 11 per cent above the average of the corresponding half-year periods in the four years 1935-1938. This increase, however, was due to purchases of American manufactured goods rather than agricultural commodities. Shipments of corn, cotton, tobacco and wheat were considerably lower than in 1938. Total British exports to the United States were 13 per cent above the 1935-1938 six-month average. Manufactured articles, especially textiles, registered large gains over the

22. Popper, "The Hull Trade Program," cited.

23. League of Nations, *World Economic Survey 1938-39* (Geneva, 1939), p. 193.

24. *Ibid.*, pp. 192-95; "The New Trade Treaties between the British Empire and the United States," *World Trade* (Brussels), February 1939, pp. 1-6.

25. Percy W. Bidwell, *Our Trade with Britain* (New York, Council on Foreign Relations, 1938), pp. 54-86; *House Hearings*, cited, vol. I, p. 901; J. F. Green, "Britain's Foreign Trade Policy," *Foreign Policy Reports*, January 15, 1938.

26. Bidwell, *Our Trade with Britain*, cited, pp. 66, 89-95.

27. "The Trade Agreement with the United Kingdom," Department of State, *Press Release*, No. 477, Supplement A, November 17, 1938, pp. 19-101.

unusually low 1938 figures, but were only moderately higher than the 1935-1938 level. In general, the British-American interchange of manufactured specialities was intensified by war conditions. Except for the sharp rise in American cotton shipments to the United Kingdom, exports of farm products were noticeably displaced by metal and chemical items useful for military purposes.[27a]

The second Canadian-American agreement, superseding the pact effective January 1, 1936, moderated still further the trade barriers between the two countries and narrowed the margin of imperial preference. Experience under the first convention had been featured by a mutually advantageous increase in average annual trade in both directions.[28] With a few unimportant exceptions, the new agreement has continued or expanded the concessions already granted in 1936, so that on the basis of 1937 statistics, 83 per cent of all American imports from Canada and 73 per cent of Canada's purchases from the United States are affected. Rates have been further reduced by Canada on many agricultural and non-agricultural products. The Canadian government, moreover, agreed to remove, for all items covered by the agreement, a special 3 per cent excise on the duty-paid value of imports. Actually, by legislation effective April 26, 1939, the tax was abolished on all imports from the United States.[29] A guarantee of relief from certain burdensome practices of Canadian customs administration was also reaffirmed.[30]

In addition to continuing the benefits accorded in the 1936 agreement, the United States has altered and extended its customs quota system, under which imports in excess of predetermined limits pay full rates. Nine quotas of this type are fixed in the new agreement for the protection of domestic producers, principally agricultural. Many other duties are reduced, and—a point of great importance to Canada—guarantees are given that duty-free entry will continue to be accorded to 85 per cent of all non-dutiable imports from the Dominion, including newsprint paper and wood pulp.[31]

LATIN AMERICA

During the last three years the United States has established still closer commercial relations with the Caribbean and equatorial states of Latin America. Agreements have now been concluded with all the countries in these areas except Mexico, Panama, the Dominican Republic and Peru. In general, the pacts are characterized by United States guarantees of continued duty-free entry for distinctively tropical products—often comprising 90 per cent or more of our total imports from the country involved—in return for benefits for American foreign trade specialties.[32] Thus, in the case of El Salvador, the United States gains bindings or reductions on shipments of wheat, many foodstuffs, lumber, rubber and leather products; it grants assurances that coffee, cocoa beans, skins and tortoise shell will not be subject to duty, and lowers rates on four minor items. Coffee alone accounts for roughly 95 per cent of total United States imports from El Salvador.[33] Generally similar agreements have since been concluded with Costa Rica and Ecuador. Agreements of this type will hardly influence the character of United States imports from tropical Latin America, although they tend to improve our export position there.

Commercial relations with Cuba have stood on a special footing ever since the establishment of preferential trade relations in 1903. Sugar—admitted to the United States from the island under absolute quota limits generously protecting domestic producers—dominates the list of Cuban exports. Under the exclusive preferences reciprocally accorded in the agreement of September 3, 1934, an impressive increase has taken place in Cuban-American trade.[34] On December 23, 1939 a supplementary preferential agreement became effective, providing for restoration of the former reduced tariff of 9/10 cents per pound on Cuban sugar, which had automatically reverted to the higher 1934 level of 1.5 cents per pound when the President suspended the quota provisions of the Sugar Act on September 11, 1939 to curb speculation.[35] Concessions were also granted on Cuban cigars and cigar tobacco, with certain quantitative restrictions on the low-duty entry of cigar-filler and scrap tobacco, to replace the absolute quotas on Cuban tobacco which had become ineffective when the domestic

27a. U.S. Department of State, *Analysis of the Trade of the United Kingdom with the United States during the First Half of 1939* (mimeographed, October 16, 1939); U.S. Department of Commerce, *Trade of the United States with the United Kingdom in 1939* (March 1940, processed).

28. *Department of State Bulletin,* January 13, 1940, p. 43.

29. Department of State, *Press Release,* No. 8, January 6, 1940.

30. For details, cf. Department of State, *Press Release,* No. 477, Supplement B, November 17, 1938, pp. 5-12, 18-46.

31. *Ibid.,* pp. 12-15, 46-58.

32. For statistical data on trade trends with Latin American agreement and non-agreement countries, cf. H. J. Trueblood, "Progress of Pan-American Cooperation," *Foreign Policy Reports,* February 15, 1940, p. 297.

33. Department of State, *Press Releases,* February 20, 1937, pp. 105-15. Agreement signed February 19, 1937; effective May 31, 1937.

34. *Department of State Bulletin,* December 23, 1939, pp. 731-33.

35. On December 26, 1939 the President proclaimed the restoration of the sugar quota system for the calendar year 1940. The lower rates of duty on Cuban sugar went into effect on December 27, 1939.

tobacco control system was invalidated in March 1936. Less important changes involved clarification, or incorporation in the agreement of advantages already accorded by virtue of other agreements or autonomous tariff adjustments.[36]

The position of Venezuela, too, constitutes an exception to the general rule of complementary trade with tropical America. In this instance petroleum, the competitive item involved, accounted in 1938 for about 80 per cent of Venezuela's total exports to this country, which were valued at $20,035,000.[37] Under the trade agreement which entered into force on December 16, 1939, Venezuelan duties were reduced on 35 items including wheat flour, hog lard, lumber, metal furniture and parts for agricultural machinery—representing 10 per cent of United States exports to the republic in 1938—and were stabilized on 61 products including a wide variety of manufactures and comprising over 25 per cent of total exports. United States concessions to Venezuela cover only 14 items, but these accounted in 1938 for 88.6 per cent of all purchases from the republic.[38] The import excise tax on petroleum levied by Congress in the Revenue Act of 1932 and since renewed has been reduced 50 per cent, with an annual customs quota for imports from all sources equivalent to 5 per cent of the petroleum processed in United States refineries during the preceding calendar year.[39] On the basis of 1938 data, imports at the lower rate might amount to 58,251,000 barrels annually, as compared with average imports of 34,569,000 barrels between 1933 and 1938.[40]

The vigorous protests aroused in the United States by the oil arrangement are generally illustrative of opposition to the program on the part of interests which regard themselves as injured. The aggrieved groups contend that import excise taxes may not legally be altered except by Congress,[41] although these taxes indubitably fall within the category of "other import restrictions" which may be modified by the President under the trade agreements Act.[42] Representatives of the "independent" oil producers charge that Venezuela reaps slight benefit from the concession, since three large companies—two American and one foreign—import virtually all Venezuela oil entering the United States; and that the reduction merely fosters monopolistic control by these companies in the Atlantic seaboard area where such imports are consumed.[43] Producers of coal support this contention because cheaper fuel oil would injure their competitive position.[44] In reply the Administration points out that the United States petroleum industry exports much more oil than it purchases abroad. Venezuelan crude and the bulk of domestic production, moreover, are complementary. While the former yields principally heavy fuel oil and asphalt, the latter is the source of a high percentage of gasoline and other more valuable products. To supply a growing demand for fuel oil, domestic producers have already refined serious oversupplies of gasoline.[45] By facilitating importation of a limited quantity of low-grade oil to meet American needs, something is done to remedy a productive maladjustment within the industry, while irreplaceable domestic supplies are conserved.[46]

ARGENTINA—A TEST CASE

Still greater difficulties were encountered by the State Department during a first attempt to negotiate agreements with the temperate-zone countries of South America in the latter half of 1939. Concessions on any of the primary products exported from this area seemed destined to arouse the hostility of North American farm, live stock and metal interests. Negotiations with Argentina, announced on August 23, 1939, were therefore regarded as an acid test of the Administration's ability to effect

36. Cf. *Department of State Bulletin*, December 23, 1939, pp. 729-31; *Monthly Bulletin of the American Tariff League*, December 1939, pp. 2-3.

37. In addition, approximately 95 per cent of the exports of petroleum products from the Netherlands West Indies to the United States is produced from Venezuelan crude oil.

38. Department of State, *Press Release*, No. 571, November 6, 1939.

39. The full tax collected on shipments in excess of quota limits is bound against increase. Adopting the first ten months as a base period, the United States has allocated to Venezuela 71.9 per cent and the Netherlands West Indies 20.3 per cent of the total allotments. *Department of State Bulletin*, December 12, 1939. The quota does not apply to bunker fuel and ship supplies for foreign and intercoastal shipping, which enter duty-free.

40. "Analysis of the Trade Agreement with Venezuela," *Department of State Bulletin*, November 11, 1939, pp. 524-40.

41. The device of the import excise tax, now applied to certain imports of petroleum, lumber, copper, coal and a long list of other oils and fats, is a measure utilized by Congress to grant or increase customs protection without reopening the general tariff legislation of 1930. Cf. C. R. Whittlesey, "Excise Taxes as a Substitute for Tariffs," *American Economic Review*, December 1937.

42. *U.S. v. Domestic Fuel Corporation et al.*, 71 F. (2d), 424; *Congressional Record*, February 23, 1940, pp. 2857-58. The revenue Act of 1932 specifically provides that the import taxes shall be treated as customs duties. Cf. *McGoldrick v. Gulf Oil Co.*, U.S. Supreme Court decision No. 473, decided March 25, 1940.

43. *House Hearings*, cited, vol. 1, pp. 837-42; vol. 2, pp. 1229 ff.

44. Actually, imported petroleum furnishes less than one per cent of the total energy consumed in the United States. *Ibid.*, vol. 2, p. 1406.

45. *Wall Street Journal* (New York), January 19, 1940.

46. *House Hearings*, cited, vol. 1, pp. 863-75.

significant changes in its tariff schedules in the face of pressure from powerful sectional groups.

For both countries the prospect of an agreement was attractive. The United States could anticipate improvement of its competitive position—injured by bilateral commercial treaties with European nations and an exchange control system which bore heavily on its trade—in one of its best South American markets.[47] The Argentine might expect that its products would be afforded freer access into the world's largest consuming market by partial relaxation of tariff barriers considerably heightened in 1922 and 1930. During the fifteen-year period 1924-1938 these barriers had been partially responsible for a heavy United States export surplus with Argentina totaling $486,900,000. United States duties imposed on such Argentine staples as corn, wheat, meat products, wool, hides and flaxseed, had served as partial justification for Argentina's "buy from those who buy from us" policy of favoring European consumers of its products, particularly Great Britain.[48]

In initiating the negotiations, the State Department issued a list of 38 articles on which concessions would be considered, including such more or less competitive agricultural items as casein, corn, flaxseed, tallow, canned beef, cheese, turkey, and coarse wool not extensively produced here.[49] It was assumed that customs quotas would be applied on imports of many of these commodities. The schedule did not include fresh, chilled or frozen meat about which American live-stock producers were most seriously concerned; and it was understood that the Department of State had no authority to relax the sweeping sanitary embargo against Argentine meat—deeply resented by Argentinians.[50] The Buenos Aires government agreed to base the new pact on the multilateral trade principles of the United States and to accord imports from this country "any advantage given competing imports from any other source."[51] Shortly after the outbreak of war, the Argentine did take steps to facilitate purchases from the United States, partly to compensate for an anticipated shortage of materials imported from Europe.[52] On November 20, 1939, however, while negotiations were under way, the Argentine exchange authorities sharply reversed their policy and indicated that wherever possible foreign purchases would be diverted to Britain and France. It is not known whether this move was made for bargaining purposes or as the result of pressure for compensation agreements by the Allies.[53]

At any rate, it was revealed on January 8 that negotiations had collapsed. The explanatory statements published by both governments disclose a common inability to modify divergent commercial policies sufficiently to reach an accord. The United States insisted that Argentina renounce to some extent its bilateral commercial practices; yet it was unwilling to offer customs quotas on linseed and canned beef—highly protected items of which domestic production is inadequate—large enough to bring the trade between the two countries close to a balance. Without such an undertaking the Argentine government felt that it could not sign a pact which, by permitting a greater inflow of United States goods, would drain the country of foreign exchange required for payments abroad.[54] It seems unfortunate that the basic disagreement on these points was not more fully explored before negotiations were announced; and that, once announced, they had to be hastily completed before Congress began to consider renewal of the program in January 1940.[55] As a result of this fiasco negotiations with Uruguay, carried on simultaneously because its exports are closely comparable to those of Argentina, were also terminated.

Meanwhile, progress has been made toward an agreement of less importance with Chile, for which the customary schedule of items subject to concession was published October 2, 1939. From Chile the United States imports large stocks of copper, out-of-season fresh fruits and vegetables, dried beans, iron ore, nitrates, and iodine. Chile is a purchaser in this market of petroleum products, iron and steel

47. United States exports to Argentina totaled $71,113,502 in 1939. Imports were valued at $61,920,227. *Monthly Summary of Foreign Commerce of the United States,* December 1939, p. 4.

48. Under the Runciman-Roca agreement of December 1, 1936, the proceeds of Argentine exports to the United Kingdom were preferentially pledged to British creditors. Cf. *The Economist* (London), December 5, 1936, special supplement.

49. "Announcement of Proposed Negotiations," *Department of State Bulletin,* August 26, 1939, p. 166.

50. On the controversy over the Argentine sanitary convention, cf. Percy W. Bidwell, *The Invisible Tariff* (New York, Council on Foreign Relations, 1939), pp. 17, 18, 217-20.

51. "Announcement of Proposed Negotiations," cited, p. 167.

52. *New York Herald Tribune,* October 1, 25, 1939; *Christian Science Monitor,* October 3, 1939.

53. Cf. *New York Times,* November 22, 23, 1939, February 18, 1940; *New York Herald Tribune,* November 23, 1939; H. S. Giusta, "Argentine Foreign Trade in 1939," *Commerce Reports,* February 24, 1940, pp. 186-87; U.S. Department of Commerce, *Latin American Financial Notes,* December 29, 1939, p. 418.

54. *Department of State Bulletin,* January 13, 1940, p. 42; for statement of Argentine Foreign Office, cf. *La Prensa* (Buenos Aires), January 14, 1940; *South American Journal* (London), February 3, 1940.

55. Despite its failure to reach an accord, the United States displaced Britain as Argentina's largest source of imports in January 1940, as articles formerly secured from the belligerents became unavailable. *New York Times,* February 29, 1940; *Commerce Reports,* March 2, 1940, p. 201.

manufactures, machinery and automobiles.[55a] Since additional agricultural imports will probably be severely limited by customs quotas and seasonal tariff reductions, controversy has centered about the import excise tax of 4 cents a pound on copper. On December 21, 1939, before negotiations were concluded, the State Department felt constrained to declare that no concession would be granted on this item. Although this unprecedented move was widely interpreted as a gesture of political expediency, to win Senatorial votes for prolongation of the trade agreements Act, officials deny they were influenced by any such consideration.[56] Their motive, they declare, was to counteract an "almost hysterical condition" in certain producing areas; and the step was taken only after it had been decided on economic grounds not to lower the excise tax.[56a] Nevertheless the practice of singling out a commodity for special treatment because of an effective "scare" campaign waged by protectionist interests sets a highly questionable precedent.

TURKEY

The trade agreement with Turkey, which came into force on May 5, 1939, marks the first penetration of the Hull program into the orbit of Germany's economic *Lebensraum*. Turkey's exports are principally agricultural and mineral products, while its imports from the United States consist largely of machinery, iron and steel goods, textiles and petroleum products. Total trade between the two countries amounted to approximately $31,500,000 in 1938, and has increased substantially in recent years. The forty-four tariff concessions granted by Turkey in the agreement cover 41 per cent of the value of imports from the United States, and take the form of reductions of 5 to 88 per cent below the general Turkish tariff rates. In return the United States makes concessions on 97.5 per cent of its total imports from Turkey in 1937. On cigarette leaf tobacco, which accounts for 50 to 70 per cent of United States imports from Turkey and is used for blending, the duty is reduced by over 14 per cent but remains equivalent to 60 per cent ad valorem on the basis of 1938 prices. Equitable treatment is to be accorded to American commerce in the application of Turkish exchange controls and quotas, on the basis of the principle of the prior representative period. Agreement on this point was relatively simple, because Turkey has consistently enjoyed an export balance in its trade with the United States and would not in general be pressed for dollar exchange.[57]

ECONOMIC ISSUES

From the foregoing survey it is apparent that the officials administering the trade program have on the whole successfully overcome a wide variety of obstacles to the freer flow of international trade. Their accomplishments, however, have only been won in the face of continuous protests on the home front. Many isolationist liberals, for example, fear that increased foreign trade may embroil the country in imperialist rivalries abroad, or that the aims of the program are incompatible with the development of a balanced, government-controlled economy in the United States.[57a] While these criticisms raise fundamental questions, their immediate effects in Washington are much less disturbing than the attacks of the direct beneficiaries, real or imagined, of tariff protection. Their representatives are wont to demand prohibitive customs barriers without realizing that a permanently curtailed foreign trade entails social and economic readjustments which they, unlike the liberals, are not prepared to accept.

The point of view of most protected American interests is reflected in recurrent proposals for tariffs sufficiently high to "equalize costs of production" at home and abroad.[58] Were such a formula rigidly followed, it would destroy the advantages of international trade by wiping out all imports of the products to which it was applied and perpetuating subsidies to inefficient industries. In fact, flexible tariff procedure based on this principle has been incorporated in American law since 1922. Its results have been meager, despite careful administration

55a. *Foreign Commerce Yearbook, 1938,* pp. 227-28; *Department of State Bulletin,* October 7, 1939, pp. 346-49. In 1939 United States exports to Chile were valued at $26,788,855, imports at $40,725,648.

56. *Department of State Bulletin,* December 23, 1939, p. 733; testimony of Assistant Secretary of State Grady, *House Hearings,* cited, vol. 1, pp. 777, 942.

56a. Under the 50 per cent limit, an import tax of at least 2 cents a pound would still be collected. Since the differential between the American and the world price has averaged far less than 2 cents for many years, it is highly improbable that even the maximum reduction permitted by law would materially affect trade trends. The bulk of our copper imports is refined in bond and re-exported. The United States has been on a net export basis for copper since 1933.

57. "Analysis of Trade Agreement with Turkey," U.S. Department of State, *Press Releases,* April 8, 1939, pp. 266-87; U.S. Tariff Commission, *Trade Agreement between the United States and the Republic of Turkey: Digests of Trade Data with Respect to Products on which Concessions were Granted by the United States* (Washington, 1939, processed).

57a. Stuart Chase, *The New Western Front* (New York, Harcourt Brace, revised, 1939), pp. 68-114; Jerome Frank, *Save America First* (New York, Harper, 1938), pp. 95-149, 164-67.

58. For suggestions of this type in connection with extension of the trade agreements Act, cf. proposal of Senator Vandenberg, discussed by Secretary Hull in *Department of State Bulletin,* December 23, 1939, pp. 724-26; *Congressional Record,* February 23, 1940, pp. 2880, 2911.

by the Tariff Commission.[59] Comparative cost, where it can be ascertained, should be one factor in the determination of rates. But experience has proved that the complexities of deciding on comparable types, grades, periods, plants and markets for which "cost" is to be calculated, together with the difficulties of obtaining adequate data here and abroad, are insuperable barriers to tariff adjustment by this standard alone.[60]

Supporters of the cost doctrine also contend that the status of American labor is jeopardized by the increased flow of imports produced by foreign, low-wage workers.[61] Actually, rate reductions in trade agreements have been so skillfully circumscribed that there has been very little direct displacement of domestic labor.[62] On the contrary, our greatly increased exports and larger export balance with the agreement states betoken a sizeable net gain in employment. Exports to trade agreement countries of manufactures, semi-manufactures and manufactured foodstuffs averaged $353,000,000 more in 1937 and 1938 than in 1934 and 1935, whereas imports of dutiable manufactured goods from these countries advanced by only $88,000,000.[63] Efficiency as demonstrated by low unit cost of production, not labor cost alone, is a decisive factor in international competition. It is therefore not surprising that hourly earnings in a group of representative export industries benefiting from trade agreement concessions averaged 75.2 cents in 1937, as against a national average for all manufacturing industries of 63.4 cents and one of 54.8 cents for a representative group of industries claiming injury under the program.[64] The stimulation of high-wage industries can hardly be construed as harmful to American labor.

Still less defensible is the widely circulated charge that the reciprocal tariff policy has "sold agriculture down the river" by facilitating agricultural imports while export benefits go primarily to manufacturing industries. If anything, the State Department has been over-solicitous of farm interests. Advantages have been obtained for 73.9 per cent of the agricultural imports of the agreement countries from the United States, and for 48.5 per cent of their non-agricultural imports.[65] American agricultural exports to the sixteen countries with which agreements were effective for the entire fiscal year ended June 30, 1939 were 15 per cent higher than in the fiscal year 1935-1936, whereas such exports to other countries declined by 19 per cent in the same period.[66]

As for imports, duties have been reduced on only 14.6 per cent of our foreign agricultural purchases (close to half this figure representing Cuban sugar) compared with reductions on 23.4 per cent of other imports.[67] Many of the concessions are relatively insignificant, especially when restricted by customs quotas. The allowance of 225,000 heavy cattle so admitted under the second Canadian agreement is equivalent to only one and one-eighth per cent of our average annual slaughter of cattle (including calves). The milk, cream and potatoes which may be imported at lower rates amount to less than one per cent of home production. Domestic economic conditions, not imports on this scale, determine the degree of prosperity enjoyed by these branches of agriculture.[68] Farm tariff reductions in trade agreements barely scratch the surface.

It is of course true, as some critics assert, that the farmer has furnished a diminishing share of American exports in recent years, while agricultural imports continue to account for half our purchases abroad.[69] Yet to charge the trade agreements with responsibility for these trends is to lose sight of long-term factors operative in our foreign commerce. Among the elements tending to reduce farm exports have been increasingly efficient competition in world markets from other areas, domestic shortage due to drought, insufficiency of dollar ex-

59. Since 1922 rates have been altered after Tariff Commission findings in only 85 instances, most of them unimportant. By contrast, 1012 duties have been lowered under the reciprocal trade program, which really incorporates an element of flexibility into the American tariff schedule.

60. Cf. the formula embodied in section 336 of Tariff Act of 1930, U.S. 71st Congress, 2d Session, House Document No. 476, pp. 124-27. Under the trade agreements Act, this section does not apply to items covered by agreements. Cf. *House Hearings*, cited, vol. 1, pp. 726-28, 748; Bidwell, *Invisible Tariff*, cited, pp. 117-25.

61. *House Hearings*, cited, vols, 2, 3, *passim*, especially address of Matthew Woll, vol, 2, pp. 1381-95.

62. This is continually illustrated by the Administration's successful demonstration that conditions have improved within the affected industries.

63. Figures include only agreements effective before 1939. Testimony of Isador Lubin, *House Hearings*, cited, vol. 3, pp. 2012 ff. For discussion of effects in specific industries. cf. *ibid.*, pp. 2014-17; *Senate Hearings*, cited, pp. 288, 292, On the benefits of foreign trade to transport workers, cf. *House Hearings*, cited, vol. 3, pp. 2469-79.

64. *House Hearings*, cited, vol. 3, pp. 2017-19.

65. Since some of our largest farm exports, such as cotton and grains, are subject to little or no duty in many foreign states, guarantees of existing treatment account for the major portion of the agricultural concessions gained.

66. Statement of Secretary Wallace, *House Hearings*, cited, vol. 1, p. 120.

67. Existing treatment is bound on approximately 40 per cent of the imports in both categories. U. S. Department of State, *Concessions Granted by the United States in Trade Agreements*, cited; *House Hearings*, cited, vol. 1, p. 119.

68. *House Hearings*, cited, vol. 1, pp. 731-41.

69. Agricultural exports constituted 36.8 per cent of total exports in 1931-1935, and only 21.0 per cent in 1939. "Foreign Trade of the United States, 1938," cited, p. 33; *Monthly Summary of Foreign Commerce*, December 1939, p. 33.

change in the hands of foreigners, the drive for self-sufficiency in Europe, price-raising crop loans in the United States (ultimately counterbalanced by export subsidies), and the concentration of foreign purchases on war supplies.[70] Of themselves, trade agreements are obviously inadequate to counteract these forces; but it is equally obvious that they help to do so.

On the score of imports, too, the agreements are often unjustly censured. In fact, agricultural imports ordinarily increase in periods of prosperity because of the additional demand for raw materials largely non-competitive with American production. In 1938, for example, over half the total agricultural imports of $956,000,000 consisted of items such as rubber, coffee, tea, silk, bananas and carpet wool, which are not commercially produced in the United States. Sugar imports regulated by quota and needed to assure an adequate domestic supply accounted for an additional $130,000,000. Most of the remaining imports also supplement home production because of seasonal factors or special qualities.[71] Taken as a whole, American agriculture in 1938 enjoyed about 93 per cent of the domestic market for farm products grown in this country—3 per cent more than in 1929.[72] A shift to complete economic nationalism for agriculture would cost the farmer far more in terms of vanished export markets than he could gain at home.[73]

To some extent the agricultural adjustment schemes in effect since 1933 represent just such a development, necessitated because of the collapse of foreign markets for primary products. In so far as crop control measures curtail output and raise prices above world levels, they undoubtedly run counter to the liberal economic philosophy underlying the trade program.[74] Ultimately, unless millions of acres are permanently withdrawn from cultivation, control is likely to involve some form of export subsidy.[75] Thus, a wheat and flour subsidy program was inaugurated in August 1938; and in the fiscal year ended June 1939, 94,000,000 bushels of subsidized wheat (including the wheat equivalent of flour) were sold abroad at an average cost of 29 cents a bushel. Similarly, a cotton export program providing for a bounty of 1.5 cents per pound became effective July 27, 1939, under which 6,214,000 bales (including the bale equivalent of cotton manufactures) were sold to foreigners by January 29, 1940.[76] Under an intergovernmental barter plan concluded in June 1939, the United States and Britain are exchanging 600,000 bales of cotton for about 80,000 tons of rubber, for war reserves.[77] The Administration insists that the trade program and these emergency measures, adopted only to assure the United States of its fair share in world markets, are supplemental rather than contradictory to each other.[78] Nevertheless, foreigners naturally tend to regard them as moves toward a government-controlled foreign trade policy. Failing a world-wide revival of more liberal commercial practices, it is difficult to see how the extension of this system can be avoided.

POLITICS AND THE PROGRAM

Opposition to trade agreements is not confined to their economic aspects. Protests from interests whose tariff protection is threatened are often framed in political or legal terms. Hostile spokesmen accuse Secretary of State Hull and his associates of fixing rates in "secret star-chamber proceedings" between anonymous American officials and foreigners, while American producers have no voice in the process after the preliminary stages.[79] In response it is asserted that the new procedure is distinctly superior to the pressure politics and the log-rolling of Congressional tariff-making from any national point of view. In the last six years, an elaborate administrative mechanism has been developed which enlists the technical services of the

70. Cf. R. B. Schwenger, "A Decade of Exports and Imports," *The Agricultural Situation* (Washington), January 1940, pp. 11-14. For data on agricultural exports, cf. *Foreign Crops and Markets*, August 12, 1939, supplement, p. 292.

71. Letter of Secretary Hull to Senator Capper, November 7, 1939, *Department of State Bulletin*, November 11, 1939, pp. 516-24.

72. Department of Agriculture figures. *House Hearings*, cited, vol. 1, p. 733.

73. *Ibid.*; for computations in terms of acres, cf. vol. 2, pp. 1682-85.

74. According to critics, one example of this conflict is revealed by tariff reductions on farm products being purchased by the Federal Surplus Commodities Corporation for price-maintenance purposes. In reality, reductions were not made on the same kind of commodities or in the season during which surplus products were purchased, with a few exceptions where the United States is on a net export basis and has received equal or greater advantages from Canada. *Senate Hearings*, cited, pp. 72-76.

75. For frank exposition of the two-price principle for agriculture and the purpose of export subsidies, cf. *Report of the Secretary of Agriculture, 1939* (Washington, Government Printing Office, 1939), pp. 1, 2, 27-31.

76. *Ibid.*, pp. 22, 90, 93; *The Agricultural Situation*, January 1940, p. 4; Department of Agriculture, *Press Release*, January 30, 1940.

77. Great Britain, *Treaty Series No. 31*, Cmd. 6048, June 23, 1939.

78. U.S. 76th Congress, 3rd Session, *House Report No. 1594* (to accompany H.J. Res. 407), p. 27; *Senate Hearings*, cited, p. 48. Because of war conditions, subsidies on cotton and cotton waste were discontinued on January 30, 1940.

79. U.S. 76th Congress, 3rd Session, *House Report No. 1594*, part 2, pp. 35-36. Producers with a vested interest in continued protection complain that their views receive polite but only perfunctory attention at the public hearings.

Departments of State, Commerce and Agriculture, the Treasury and the Tariff Commission in the collection of data and the determination of desirable tariff changes. Under the direction of an interdepartmental Trade Agreements Committee, groups of experts make detailed studies of American trade by countries and commodities, and deal with special problems as they arise.[80] When bargaining is under way, or basic decisions are being considered, anonymity and secrecy are essential both to curb lobbyists and to observe international courtesies. Special interests, however, are encouraged to express their desires and furnish information for use in drawing up lists of concessions and demands. Public notice is given of intention to negotiate every agreement, enumerating all possible tariff concessions; hearings are held by the interdepartmental Committee for Reciprocity Information; and informal conferences with parties likely to be affected are frequent. The entire process represents a notable achievement in public administration. Even high-tariff proponents admit the competence of the personnel.[81] Administrative tariff-making, in conformity with general objectives established by Congress and subject to periodic Congressional review, appears to be no more "undemocratic" than, for example, the determination of railroad rates by the Interstate Commerce Commission.

A more serious issue is presented in the charge that the program is wholly unconstitutional. It is asserted that because of the broad powers granted the President in the reciprocal trade agreements Act, the agreements are in effect treaties requiring Senate ratification.[82] The Act is also condemned on the ground that it delegates to the President the authority to alter tariffs—a Congressional function—without establishing sufficiently definite standards for its exercise.[83] Provided the delegation of authority is within constitutional limits, the President's power to negotiate executive agreements as the sole organ of the federal government in international relations cannot be challenged.[84] Actually, the standards guiding the Executive are extremely broad under the law. The President is authorized to act whenever he finds as a fact that existing import restrictions of the United States or foreign countries are unduly burdening and restricting American foreign trade, and that trade agreements made under the Act's limitations will expand foreign markets as a means of improving domestic conditions.[85]

The Administration denies, however, that the law represents an improper alienation of legislative power. Changes in customs schedules made by the Executive under the flexible provisions of the Tariff Act of 1922 have been upheld by the courts, in a decision providing that such delegation is not unconstitutional if Congress "shall lay down by legislative act an intelligible principle" to which the Executive is directed to conform.[86] By comparison with the standards set for Executive guidance in previous administrative tariff procedure, it is contended, the limits and criteria of Presidential action in the reciprocal tariff law are sufficiently intelligible to preclude charges of unconstitutionality. The Chief Executive, moreover, enjoys in international affairs "a degree of discretion and freedom from statutory restriction" far greater than in domestic matters.[87] In view of these supporting precedents, the Administration might well arrange a test case on the specific issue, which has hitherto been impossible because of legal technicalities.[88] The outcome would discourage efforts to alter the program by requiring Senate or Congressional approval for all agreements. As experience under the Tariff Act of 1897 demonstrates, such a stipulation would strike a death blow at tariff reduction.

TRADE PACTS AND THE WAR

Considering the obstacles confronting them, Secretary Hull and his associates have accomplished

80. For description of trade agreements procedure, cf. statement of A. Manuel Fox, *House Hearings,* cited, vol. 1, pp. 492 ff.

81. Cf. U.S. 76th Congress, 3rd Session, *Senate Report No. 1297* (to accompany H.J. Res. 407), p. 1. The procedure is in many respects similar to that employed in administering the flexible tariff provisions of the Acts of 1922 and 1930—which most of the trade agreements' critics stoutly upheld. It is only fair to state that Secretary Hull and other Democrats opposed the flexible tariff idea when it was originated. Perhaps both sides were influenced by the fact that "flexible" changes were for the most part upward, while the reciprocal trade negotiators have never yet raised a tariff rate although empowered by the Act to do so.

82. Cf. address of Senator Pittman, *Congressional Record,* March 25, 1940, pp. 5079-94, and Senate debates, *ibid.,* March 26-29, 1940.

83. Cf. *House Hearings,* cited, vol. 3, pp. 2493-2504.

84. Over 1,000 executive agreements have been concluded by the United States. Compacts somewhat similar to reciprocal trade agreements, although more restricted in scope, were negotiated by the President under the Tariff Acts of 1890 and 1897. Testimony of Green H. Hackworth, *ibid.,* pp. 2480 ff. and cases cited.

85. For the formula, cf. text of Act or of the proclamation of any agreement.

86. *Hampton and Co. v. U. S.;* 276 U. S. 394 (1928), at p. 409.

87. *U. S. v. Curtiss-Wright Export Corp.,* 299 U. S. 304 (1936), at pp. 320-24. For review of the question of constitutionality, cf. Department of Justice memorandum, *Senate Hearings,* cited, pp. 728-43; Francis B. Sayre, "The Constitutionality of the Trade Agreements Act," *Columbia Law Review* (New York), May 1939.

88. Cf. *Fletcher v. U. S.;* text in *House Hearings,* cited, vol. 1, pp. 83-94.

much in the past six years.[89] They have introduced sound methods in the technique of tariff-making and have lowered some of our most prohibitive trade barriers. They have provided a standard about which conservatives who oppose rapid extension of government controls over political and economic life may rally. They have performed a notable educational service in informing the American people of its position in the world economy. To some degree, moreover, the trade agreements program has retarded the drift of non-totalitarian countries toward a régime of completely controlled and bilateral foreign trade.[90]

Yet, while tariff bargaining has undoubtedly tended to expand American foreign trade, it has not had a fundamental effect on the domestic price structure or on American economic life. The difficulty of demonstrating that any important industry has been substantially injured because of the trade program is proof, not only of the skill with which it is administered, but also of the essentially marginal influence it exercises. In part its restricted scope is due to the power of opposing vested interests, and the restraints—such as the 50 per cent limit for tariff changes—imposed on the authority of the negotiators. More broadly, it is due to economic and social forces which are apparently impelling this country and others toward collectivism and increasing governmental control. Sponsors of the trade program freely admit that it is not a panacea. Alone, it cannot be expected to cope with the interrelated complex of present-day political and economic disturbances. Even in the specific field of international trade relations, the agreements have not reversed the trend toward more direct public intervention[91]—which can be discerned in this country as well as abroad—nor have they appreciably affected the United States' balance of international payments.[92]

In the immediate future the crucial issues of American commercial policy are likely to center about the war and the conditions which may follow in its wake. Because military rather than economic criteria now dominate Europe and Asia, the Hull program can make little progress as long as hostilities continue. Totalitarian warfare involves totalitarian control of foreign trade, with increasingly direct government participation in exclusive bilateral transactions along the lines already developed by Nazi Germany.

At the moment the pre-war tendencies against which the Hull program is directed are decidedly in the ascendant. The Allies, free to restrict their imports from the United States because of the war escape clauses contained in trade agreements with this country,[93] are rapidly consolidating their trade relations on the new basis. They seek to husband financial resources, maintain stocks of essential supplies, conserve shipping space, and curtail commercial intercourse by neutrals with the enemy. The Allied licensing systems for imports and exports centralize control over commerce and enable the authorities to shift foreign purchases from one source to another.[94] Both Britain and France are facilitating trade within their empires and currency blocs, and have taken the first steps toward the integration of the two imperial systems into a single economic unit. Both have concluded a series of war trade agreements designed to influence the policies of European neutrals and limit Germany's access to neutral markets.[95] Clearing and compensation arrangements tend to canalize foreign trade between the states concerned.[96] It is reported that countries which enjoy export balances in their trade with France and Britain are being forced by the Allies to use the proceeds for purchases from them.[97] Allied exports have also been stimulated by depreciation of the pound and the franc.[98]

Inevitably, certain branches of American trade

89. Their progress has been rendered easier by general improvement in economic conditions, which has enabled the country to absorb a larger quantity even of directly competitive imports without injury to American producers.

90. Cf. Henry Chalmers, "Foreign Tariffs and Commercial Policies during 1939," *Commerce Reports*, February 3, 1940, pp. 112-18.

91. Cf. *Twenty-Seventh Annual Report of the Secretary of Commerce, 1939* (Washington, Government Printing Office, 1939), pp. 22-23.

92. August Maffry and Paul D. Dickens, "The Balance of International Payments of the United States in 1939," *Survey of Current Business* (Washington), February 1940, pp. 45-52.

93. Article XII of Canadian agreement; Articles IX and XII of French agreement; and Article XVI of British agreement. U.S. Department of State, *Executive Agreement Series*, Nos. 146, 149 and Department of State Publication No. 1256.

94. Cf., for example, British license requirements for imports of foodstuffs, and announcement of indefinite suspension of imports of canned and bottled fruit. *Commerce Reports*, March 23, 1940, p. 286; March 30, 1940, p. 303.

95. Chalmers, "Foreign Tariff and Commercial Policies during 1939," cited; declaration of Neville Chamberlain, *The New York Times*, April 3, 1940.

96. Cf., for example, Anglo-Turkish agreements, *Commerce Reports*, March 30, 1940, pp. 302-03; Franco-Spanish agreement, *ibid.*, March 16, 1940, p. 258.

97. For a report of such arrangements with Argentina, cf. George E. Quisenberry, "The Foreign Trade Picture South of the Rio Grande," *Export Trade and Shipper* (New York), March 11, 1940, p. 4. It is by no means clear that all the Allied agreements have been concluded only for the duration of the war.

98. On this general subject, cf. Alvin H. Hansen, "Monetary and Fiscal Controls in War Time," *Yale Review* (New Haven), Winter 1940, pp. 231-46; Chalmers, "Foreign Tariffs and Commercial Policies during 1939," cited; "Recent Trends in United States Export Trade," *Survey of Current Business* (Washington), January 1940, pp. 6-11. The effects of the war on United States trade will be surveyed in a forthcoming issue of *Foreign Policy Reports*.

have been and will continue to be adversely affected by these developments, although our foreign commerce as a whole is in a relatively satisfactory state.[98a] While American exports of manufactured products, aircraft, machinery, lubricants and chemicals have boomed, agricultural exports to Europe, with the temporary exception of cotton, have been sharply reduced. In the first four months of the war, agricultural shipments, other than cotton, to the United Kingdom alone were 61 per cent below the low level of the corresponding period of the previous year. The fall has been particularly severe for fruits, grains and flue-cured tobacco.[99] In a number of instances, the diversion and restriction of trade by the warring states undo the work of our agreements with belligerents and neutrals alike and are clearly discriminatory in effect.

Under these circumstances some observers believe that Administration policy has not been sufficiently aggressive in safeguarding American foreign commerce. They maintain that while trade agreements may protect our trade against tariff discrimination, they are of slight value in assuring equitable treatment for American exports against other, more drastic and important types of trade restrictions, particularly exchange controls.[100] Although many countries, including even trade agreement countries, have taken steps which discriminate against American commerce to some degree, only Germany is now denied the benefit of the reduced tariff rates. None of the escape clauses in the agreements has ever been invoked as a retaliatory measure, although many provide for consultation and possible abrogation if additional quotas are applied; if third countries prove to be the principal beneficiaries of a concession and if imports consequently threaten injury to domestic producers;[100a] if foreign governments take action which has the effect of nullifying or impairing the purpose of an agreement; or if sharp currency depreciation should prejudice the industry or commerce of the other party.[101] It is only natural that interests affected by restrictive foreign commercial policies should demand that the government cancel the agreements with the worst offenders, or at least adopt a sharper tone to induce the European belligerents to continue their non-military purchases in this country.[102]

There is reason to believe, however, that the existing policy of broad generalization of trade advantages, while perhaps not adequate to protect American trade against all discrimination, is clearly preferable to a more vigorous course of retaliation and commercial warfare. It is easy to exaggerate the extent to which American exports suffer from inequitable treatment. Sharp currency depreciation in Britain, France and Canada, for example, may improve the competitive position of individual industries there—in so far as it is not offset by rising prices and difficulties incident to wartime production. Yet United States trade statistics since September 1939 disclose no unusual flood of imports from belligerent countries.[103] On grounds of general policy, moreover, it may be inadvisable to hamper the Allies by interfering too strenuously with their wartime commercial practices.[104] Quite possibly the present tendency to seek the best arrangements attainable by quiet diplomatic representation holds out the brightest prospects for American trade in the long run.[105]

Even if no important agreements are negotiated with European countries during the war, the reciprocal trade mechanism is useful in making the necessary adjustments in American foreign commerce. Thus, a quota has been applied on imports of silver fox furs under a supplementary agreement with Canada, protecting American breeders against an inundation of furs which can no longer be sold in their customary European markets.[106] Conversely, in limiting its imports of pork, the Canadian government has granted the United States a monthly quota of 1,626,769 pounds, equivalent to the average peace-time monthly shipments under the second Canadian agreement between January and September 1939—a figure enormously in excess of the rate of American sales in the preceding fifteen years.[107]

98a. For trend of American foreign trade in the first six months of the war, cf. *The New York Times*, April 8, 1940.

99. *Foreign Crops and Markets*, February 24, 1940, pp. 222-23; *Senate Hearings*, cited, pp. 56-66.

100. Cf. *Senate Hearings*, cited, pp. 269, 350, 362 ff.

100a. The United States is at present considering withdrawal of a tariff concession on certain hand-ornamented handkerchiefs, made in the Swiss agreement, because other countries have supplied the major portion of greatly increased imports of this item. *Commerce Reports*, April 6, 1940, p. 326.

101. For summary and discussion of general clauses of the trade agreements, cf. *Monthly Bulletin of the American Tariff League*, November 1939. It may be noted that all the trade agreements except those with Costa Rica, El Salvador, the United Kingdom, Canada, Turkey and Venezuela have now run their initial terms—fixed by the law at not more than three years—and may therefore be terminated without cause on six months' notice.

102. Cf. *Senate Hearings*, cited, pp. 78-82.

103. For the Administration view that currency depreciation by the belligerents has not injured American industries, cf. letter of Secretary Hull to Senator McNary, *Department of State Bulletin*, December 23, 1939, pp. 726-29.

104. Cf. testimony of Secretary Wallace, *Senate Hearings*, cited, p. 78.

105. Cf. Department of State memorandum, *ibid.*, pp. 38-42.

106. *Department of State Bulletin*, December 30, 1939, pp. 739-40; *House Hearings*, cited, vol. 3, pp. 2575-88.

107. This was a unilateral act of the Canadian government. *Foreign Crops and Markets*, March 2, 1940, p. 255; *Commerce Reports*, March 2, 1940, p. 212.

To abolish the authority of the Executive to negotiate and to alter American import restrictions would devitalize the existing pacts and leave the United States with much less adequate administrative machinery for safeguarding American exports and imports in this abnormal period.

How far the nature of international trade restrictions will be permanently modified as a result of the war it is still impossible to foresee. The State Department appears to be proceeding on the assumption expressed by Prime Minister Neville Chamberlain on January 31, 1940—that the Allies will return to a commercial régime designed to expand international economic intercourse flowing in multilateral channels and based on the most favored nation principle.[108] Opponents of the program fear that demobilization will be followed by a wave of vast, governmentally stimulated export offensives on the part of our commercial rivals, which will conquer American foreign markets and even penetrate the United States' tariff barriers.[109] But in that case the trade agreements may prove most valuable as a force to reconstitute international economic relations on a basis equitable and beneficial to all. For after the conflict is over, the war escape clauses will cease to apply and the trade agreement provisions for non-discriminatory commercial practice will once more come into effect. Retention of the program is therefore perhaps even more significant from a symbolic than a practical point of view. It indicates that the United States intends to continue promoting the expansion of international commerce and that it will play a part in the process of post-war economic reconstruction. Abandonment of reciprocal trade, on the other hand, would clear the field for an intensified drive for self-sufficiency in the future, with all that this implies.[110]

No evaluation of the program would be complete without some consideration of possible alternatives. If Executive tariff bargaining had been abolished, the trade agreements in existence would have been denounced as they became outmoded, and the country would again enjoy an autonomous tariff open to upward revision by Congress. In one sense this system would permit the greatest measure of flexibility: Congress or the Executive might alter duties at will to protect United States imports. Such a situation would, however, largely destroy the President's ability to negotiate with foreign governments to meet special conditions as they arise, as well as to encourage American exports and lower world trade barriers.

As another alternative, the United States might "fight fire with fire" by adopting the principle of bilateral bargaining for exclusive preferences under the supervision of a government foreign trade board. The board would possess sweeping powers over the whole field of American foreign trade and finance and would employ them to prevent discrimination, equalize foreign and domestic costs of production for competitive articles, conclude barter arrangements and assist exporters.[111] A policy of this type would soon entail comprehensive government controls for all persons engaged in financial or commercial relations with foreigners, with inevitable ramifications in American domestic life.[112] It would tend to wipe out our important triangular trade and pit the United States against other nations in an exacerbated, never-ending struggle to gain and hold unstable foreign markets.

Should the rest of the world follow such a course, this country might ultimately be driven by economic pressures to follow suit, although difficult domestic readjustments would doubtless be necessary as well. At present, however, it would appear far more desirable to retain the existing mechanism and personnel of Executive tariff bargaining. It may be that the post-war trade policy of the United States will in the future rely heavily on quotas and other types of commercial controls more efficacious than tariffs and better adapted to a world of centralized and cartellized industry. The groundwork has already been laid for this development by the trade agreements work of the Administration since 1934.[113] Secretary Hull's objective of a "free" flow of trade with a minimum of governmental interference may soon become a complete anachronism. But the goals of fair treatment and the extensive interchange of goods will remain valid for the visible future.

108. *The Times* (London), February 1, 1940.

109. *House Hearings*, cited, vol. 2, p. 1429.

110. Cf. testimony of Secretary Hull, *Senate Hearings*, cited, p. 16.

111. Cf. U.S. 76th Congress, 3rd Session, S. 3238, introduced by Senator Vandenberg, February 1, 1940; address of Senator Vandenberg, *Congressional Record*, March 27, 1940, p. 5347; and Senator LaFollette, *ibid.*, April 2, 1940, pp. 5823 ff. The Vandenberg bill closely resembles proposals unsuccessfully sponsored by George N. Peek in 1933 and succeeding years.

112. Cf. Walter Lippmann, *New York Herald Tribune*, February 10, 1940.

113. Note, for example, the increasing resort to quotas for imports; the agreement with the Soviet Union, renewed each year, under which the U.S.S.R. at present agrees to purchase at least $40,000,000 worth of goods annually in this country in return for receiving the benefits of tariff rates reduced in trade agreements; and recent general commercial conventions with Italy, Greece, Chile, Liberia and Iraq providing for equitable treatment of American trade in the imposition of quotas, exchange controls and the like. Of necessity, the United States is to some degree adapting its commercial policies to practices prevalent in the rest of the world.